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March 23, 2026

VIA U.S. MAIL & FEDERAL ERULEMAKING PORTAL

Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Midwest Ozone Group Comments on the Proposed Rule Entitled "Interstate Transport Plan Review for the 2015 Ozone NAAQS." Docket ID No. EPA–HQ–OAR–2025–0192

Administrator Zeldin:

The Midwest Ozone Group[1] ("MOG") is pleased to offer these comments[2] with respect to the U.S. Environmental Protection Agency ("EPA") proposed rule and reconsideration of a final rule entitled "Interstate Transport Plan Review for the 2015 Ozone NAAQS" ("Proposed Rule"). 91 Fed. Reg. 4026. The comment period for this rulemaking has been extended and now ends on March 23, 2026.

MOG is an affiliation of companies and associations that draws upon its collective resources to seek solutions to the development of legally and technically sound air quality programs that may impact on their facilities, their employees, their

[1] The membership of the Midwest Ozone Group includes Ameren, American Electric Power, American Forest & Paper Association, American Iron and Steel Institute, American Wood Council, Appalachian Region Independent Power Producers Association, Associated Electric Cooperative, Berkshire Hathaway Energy, Big Rivers Electric Corp., Citizens Energy Group, City Water, Light & Power (Springfield IL), Cleveland-Cliffs Inc., Council of Industrial Boiler Owners, East Kentucky Power Cooperative, ExxonMobil, Monongahela Power Company, Indiana Energy Association, Indiana-Kentucky Electric Corporation, Indiana Municipal Power Agency, Hoosier Energy REC, Inc., LGE/KU, Marathon Petroleum Company, National Lime Association, North American Stainless, Nucor Corporation, Ohio Utility Group, Ohio Valley Electric Corporation, Olympus Power, Steel Manufacturers Association, and Wabash Valley Power Alliance.

[2] These comments were developed with the technical assistance of Alpine Geophysics, LLC.

communities, their contractors, and the consumers of their products. MOG's primary efforts are to work with policy makers in evaluating air quality policies by encouraging the use of sound science.

MOG Members own and operate numerous stationary sources that are affected by air quality requirements including the ozone NAAQS. As such, MOG has been actively engaged in a variety of initiatives related to the development and implementation of air quality policy. Specifically, MOG is involved in efforts associated with the development of Good Neighbor Plan interstate transport rules, National Ambient Air Quality Standards ("NAAQS"), nonattainment designations, regional haze, actions undertaken pursuant to Clean Air Act Sections 126, 176A, 179B, 184(c), 319(b), and guidance related to essential air quality monitoring programs available under the Clean Air Act.

I. Regulatory Landscape & Procedural History

A. Clean Air Act

The Clean Air Act is "an experiment in cooperative federalism." *Michigan v. EPA*, 268 F.3d 1075, 1083 (D.C. Cir. 2001). EPA sets standards for maximum levels of major pollutants, including ozone, in the air called National Ambient Air Quality Standards ("NAAQS") that "are requisite to protect" public health and welfare. 42 U.S.C. § 7409. In setting NAAQS, EPA's task is to establish standards "that are neither more nor less stringent than necessary for these purposes". 80 Fed. Reg. 65292. These standards are periodically revised based on advancements in science and technology to ensure the protection of health and the environment. States assume the "primary responsibility for assuring air quality." 42 U.S.C. §7407(a). As such, the federal government and states are intended to be "partners in the struggle against [interstate] air pollution" *General Motors Corp v. United States*, 496 U.S. 530, 532 (1990).

The Clean Air Act Good Neighbor Provision as discussed by the Supreme Court "shifts the burden to States to propose plans adequate for compliance with the NAAQS. Each State must submit a State Implementation Plan, or SIP, to EPA within three years of any new or revised NAAQS." *EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489, 498 (2014) (citing 42 U.S.C. § 7410(a)(1)). In addition to requiring states to attain and maintain promulgated NAAQS, Section 110(a)(1)(D)(i)(I) requires that these plans ensure states' emission sources do not contribute significantly to nonattainment or interfere with maintenance of any NAAQS in downwind states. However, great discretion is given to states that are

formulating their state implementation plan submissions. *Union Elec. Co. v. EPA*, 427U.S. 246, 250 (1976); *Train v. NRDC*, 421 U.S. 60, 79 (1975) ("[S]o long as the ultimate effect of a State's choice of emission limitations is compliance with the national standards for ambient air, the State is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation."). Thus, so long as a state implementation plan meets the statutory requirements of the Clean Air Act, the EPA must approve it (excluding from federal enforceability those provisions that exceed what is required). 42 U.S.C. § 7410(k)(3). Only if the EPA finds that the state implementation plan submitted by a given state is inadequate to meet the Clean Air Act criteria may EPA issue a federal implementation plan to protect downwind states. 42 U.S.C. § 7410(c)(1)(B).

EPA utilizes a four-step framework for evaluating good neighbor obligations by identifying and addressing upwind contributions to downwind states. Step 1 identifies downwind nonattainment and maintenance receptors that may be at risk of exceeding the NAAQS. Step 2 identifies which upwind states impact air quality problems in downwind states sufficient that they are considered to "contribute" (i.e. "linked") to these receptors. Step 3 considers which contributions are significant through a multifactor consideration process. Step 4 requires upwind states to eliminate those significant contributions through SIP revisions or FIPs promulgated by EPA.

B. Procedural History

On October 15, 2015, EPA published a revised the primary and secondary 8-hour ozone NAAQS for ozone of 70 parts per billion (ppb). States were required to submit to EPA ozone infrastructure State Implementation Plan ("SIP") revisions to fulfill interstate transport obligations for the new NAAQS by October 1, 2018. *See* 80 Fed. Reg. 65292.

On April 6, 2022, EPA proposed a rule to address outstanding interstate ozone transport obligations for the 2015 ozone NAAQS. *See* 87 Fed. Reg. 20036.

On February 13, 2023, EPA published "Air Plan Disapprovals; Interstate Transport of Air Pollution for the 2015 8-hour Ozone NAAQS." *See* 88 Fed. Reg. 9336.

On June 5, 2023, EPA promulgated a final rule that established a Federal Implementation Plan to address 23 states' obligations to eliminate significant contributions to nonattainment, or interference with maintenance, of the 2015 ozone

NAAQS in other states. *See* 88 Fed. Reg. 36654. This Final Rule has come to be called the Good Neighbor Plan.

On July 31, 2023, EPA stayed on an interim basis the effectiveness of the SIP requirements for sources in AK, KY, LA, MS, MO, and TX. *See* 88 Fed. Reg. 49295. On September 29, 2023, EPA issued a Second Interim Final Rule in response to a previous judicial order that clarified the SIP requirements were stayed for sources in AL, MN, NV, OK, UT, and WV. 88 Fed. Reg. 67102.

On September 25, 2023, and December 4, 2023, the United States Court of Appeals for the District of Columbia denied motions to stay the Good Neighbor Plan pending judicial review. *Utah v. EPA*, No. 23-1157 (D.C. Cir.).

On October 18, 2023, emergency applications for stay of the Good Neighbor Plan were filed in the docket of the U.S. Supreme Court. *See Ohio et al v. EPA*, No. 23A349; *Kinder Morgan, Inc. et al v. EPA*, No. 23A350; *American Forest & Paper Association, Midwest Ozone Group et al v. EPA*, No. 23A351; and *U.S. Steel Corporation v. EPA*, No. 23A384.

On June 27, 2024, the U.S. Supreme Court granted the emergency applications for stay of the Good Neighbor Plan. The Court was informed of the stays granted by the regional courts which reduced the number of states covered by the Good Neighbor Plan. The Court found that, with respect to the challenges to EPA's "explanation why the number and identity of participating States does not affect what measures maximize cost-effective downwind air-quality improvements," the stay applicants "are likely to prevail on their argument that EPA's final rule was not 'reasonably explained' ... that the agency failed to supply 'a satisfactory explanation for its action' ... and that it instead ignored 'an important aspect of the problem' before it." 144 S.Ct. at 2054.

On September 12, 2024, the D.C. Circuit Court of Appeals remanded the record of the Good Neighbor Plan to EPA to permit the agency to further respond to comments related to the Good Neighbor Plan's operation if one or more upwind states were no longer participating.

On November 6, 2024, EPA responded to the Stay Order of the Supreme Court by administratively staying the effectiveness of the Good Neighbor Plan requirements for all emissions sources subject to the Plan as promulgated, not just the applicants for a stay before the Supreme Court. 89 Fed. Reg. 87960.

On December 6, 2024, the U.S. Court of Appeals for the 6th Circuit vacated EPA's disapproval of Kentucky's SIP, finding that the EPA acted arbitrarily and capriciously. The court emphasized that EPA's 2018 guidance allowed states to rely on a 1 ppb screening threshold at Step 2 of the Good Neighbor framework, and that Kentucky reasonably relied on that recommendation, along with EPA's preferred modeling, in concluding that no additional emissions controls were required. The court confirmed that the 1 ppb threshold was treated by EPA as presumptively acceptable, based on its determination that it was "generally comparable" to the 0.7 ppb threshold in capturing upwind contributors to downwind receptors. The Sixth Circuit found EPA's later reversal dispositive. As the court explained, EPA failed to "display awareness" that it had made a "threshold change," shifting from treating 1 ppb as presumptively acceptable to treating it as presumptively insufficient. The court held that EPA's failure to acknowledge and reasonably explain this change in position rendered its disapproval arbitrary and capricious. *See Commonwealth of Kentucky v. EPA,* No. 23-3216 (6th Circuit).

On December 10, 2024, EPA issued a notice and supplemental response to comments to address "certain comments that were submitted to the proposed Good Neighbor Plan that the Supreme Court of the United States concluded that EPA had likely not sufficiently addressed in the final Good Neighbor Plan." 89 Fed. Reg. 99105.

On March 25, 2025, the 5th Circuit vacated EPA's disapproval of the Mississippi SIP, however, it upheld EPA's disapproval of the Louisiana and Texas SIPs. In response to petition for rehearing en banc filed by Texas in May 2025, the 5th Circuit issued a substitute opinion on March 9, 2026, that vacated EPA's disapproval of Texas's SIP and remanded it to EPA, in part, because this current January 30, 2026 proposed rule caused the Court to find that "we can no longer conclude with confidence that EPA's disapproval was based on its technical review of the data and reasoning Texas offered in support of what EPA called a 'multi-factor 'weight-of-evidence' analysis." As there was no petition for rehearing in banc with regard to the Court's disposition of either Louisiana's or Mississippi's petitions for review, the court has left its prior determinations in place and reinstated the parts of the prior decision that dealt with Louisiana's and Mississippi's SIPs.

II. EPA has correctly determined that application of a 1 ppb modeled contribution threshold based on either the states' modeling or EPA's 2016v3 modeling results conclusively demonstrates that interstate transport of ozone precursor emissions from Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee do not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in other States.

EPA has correctly determined that application of a 1 ppb modeled contribution threshold conclusively demonstrates that interstate transport of ozone precursor emissions from Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee do not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in other states. 91 Fed. Reg. at 4035.

MOG supports EPA's reasoning for the application of 2023 analytics in this instance. 91 Fed. Reg. 4031-32. EPA selected the year 2023 because it was the last full ozone season before August 3, 2024, moderate area attainment date for the 2015 ozone NAAQS. It is also significant that EPA has concluded that that a 1 ppb contribution level captures a comparable amount of total upwind contribution overall when considering all receptors. 91 Fed. Reg. at 4033.

The highest level of contribution of all eight states proposed for approval are detailed below. This data demonstrates that based on either the state submitted modeling and/or EPA's modeling these states each contribute less than 1 ppb to identified receptors.

State	Max. Contribution
Alabama	0.88 ppb
Arizona	0.49 ppb
Kentucky	0.84 ppb
Minnesota	0.40 ppb
Mississippi	0.79 ppb
Nevada	0.38 ppb
New Mexico	0.77 ppb
Tennessee	0.65 ppb

MOG supports EPA's evaluation of these data and conclusion that these states do not contribute to nonattainment or interference with maintenance in another state of the 2015 8-hour ozone NAAQS above a 1 ppb contribution level and that the existing

approvable SIP provides for adequate measures to control ozone precursor emissions. As for future guidance EPA may develop concerning "significant contribution" it is apparent that the Clean Air Act caselaw provides for agency discretion. Also as noted in the proposal, the latest 2016v3 modeling illustrates the exceedingly small difference in the amount of total upwind contributions captured, identifying a difference of only 5 percentage points. 91 Fed. Reg. at 4033-34. As air quality modeling improves and ambient air quality conditions improve, reevaluation of what is a reasonable contribution threshold is warranted. MOG offers additional observations on this issue in the following comments.

EPA's general policy has been to use forward-looking projections associated with a future analytic year which is consistent with the forward-looking Clean Air Act provisions governing interstate transport. However, in circumstances where EPA were to consider air quality information tied to year(s) after 2023, such evaluation would necessarily utilize different data in large part as a result of the timing of any such action by either the State or EPA combined with agency guidance.

III. EPA has correctly proposed to withdraw proposed error corrections for Iowa and Kansas, assuming that prior SIP approvals for those states remain in place.

On February 16, 2024, EPA proposed a Clean Air Act section 110(k)(6) error correction "of its previous approval actions for Kansas and Iowa and proposes to partially disapprove these states' interstate transport submissions." 89 Fed. Reg. 12666. Further, EPA proposed that "emissions from sources in Arizona, Iowa, Kansas, New Mexico, and Tennessee interfere with maintenance of the 2015 ozone NAAQS in other states" and as such, proposed to "address these states' transport obligations through expanding the coverage of the Federal Good Neighbor Plan Rule." 89 Fed. Reg. 12668.

This Proposed Rule provides EPA's logic in withdrawing the prior proposals "... [f]or consistent treatment between States," noting that "[f]or clarification, the EPA notes that the prior SIP approvals for Iowa and Kansas remain in place." 91 Fed. Reg. 4029. MOG supports both the reason for the proposed withdrawal of the error correction and the clarification that the prior SIP approvals for Iowa and Kansas remain in place.

EPA notes in the Proposed Rule that the use of a 1 ppb threshold does not undermine the basis for prior approvals of interstate transport SIPs for the 2015 ozone NAAQS that had used the 1 percent threshold and that any SIP that was

approved under a 1 percent threshold would be approvable under the 1 ppb threshold." 91 Fed. Reg. 4033, n.75.

MOG agrees that EPA has correctly applied the application of 1 ppb and modeling data to the states of Iowa and Kansas and has correctly assessed the need for the reversal of its error correction for these states. MOG therefore urges EPA to finalize the Proposed Rule with respect to both the application of the 1 ppb contribution threshold for Iowa and Kansas and the use of the EPA's March 2018 memorandum[3] modeling data in analyzing the downwind contributions of the states of Iowa and Kansas.

IV. MOG agrees that EPA is correct that the determination that the 10 subject states are not significant contributors, thereby removing EPA's authority to implement the Good Neighbor Plan requirements for those states with respect to the 2015 ozone NAAQS.

In the preamble to the Proposed Rule, EPA correctly states that upon finalization of this action, EPA would no longer have authority to implement any further action with respect to interstate transport obligations related to the 2015 ozone NAAQS approved SIPs. EPA also correctly concludes if no Step 2 linkages persist, EPA will "consider that State to have resolved its linkages," and accordingly there is no need to consider Step 3. 91 Fed. Reg. at 4035. MOG agrees with EPA that upon approval of the SIPs involved, the obligation of the states involved under Section 110(a)(2)(D) will have been satisfied.

MOG also urges EPA to make it clear that upon finalization of the SIPs for the subject states that there is no authority pursuant to Section 126 of the Clean Air Act for another state to seek to impose any additional obligations on these states.

V. MOG endorses EPA's effort to revisit previous SIP disapprovals and further emphasizes the need to apply contribution thresholds greater than 1 ppb in its assessment of other state SIPs and to consider more recent modeling information as needed.

While EPA's proposal states that it did not address the use of air quality information for an analytic year after 2023, EPA has indicated that it is open to

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[3] U.S. Environmental Protection Agency, Memorandum to Regional Air Division Directors: *Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)* (March 27, 2018).

considering more recent modeling information "if necessary to determine whether any linkages are still projected to persist...." 91 Fed. Reg. at 4032. By leaving the door open for considering future analytical years in future rulemaking, MOG urges EPA to consider using new modeling related to the 2023 analytic year only to the extent that (1) the old modeling was not sufficient to show that a state contributed less than the established contribution level and (2) that new modeling does show that state contributes below that contribution level. MOG maintains that it is EPA's obligation to review the most recent data to determine the magnitude of contributions by each state today. *Id.* at 4035.

MOG supports EPA's proposed tiered approach that is consistent with the cooperative federalism framework of the Clean Air Act in assessing linkages and downwind contribution:

> If, however, the modeling a State used indicates that a State is linked above 1 ppb to at least one receptor, the EPA will consider the best available modeling (i.e., the 2016v3 modeling) to determine whether any linkages above 1 ppb are still anticipated to persist in 2023. If no linkages persist, the EPA will consider that State to have resolved its linkages and will approve such submissions under these circumstances. This approach ensures that full consideration is given to the modeling available to the States at the time they develop their interstate transport SIP submissions, whether that be developed by the EPA or otherwise, which is consistent with the cooperative federalism framework of NAAQS implementation.

91 Fed. Reg. at 4035.

Further, MOG supports EPA's proposal to approve the 10 states by relying on a 1 ppb threshold, rather than a 1 percent threshold, as the basis for determining at Step 3 whether there is any potential for cost effective emission reduction that results in meaningful improvement in air quality in any downwind state. MOG also welcomes EPA solicitation of comments with respect to "the use of thresholds other than the 1-percent or 1 ppb discussed in this action...." 91 Fed. Reg. at 4034.

Among the alternative thresholds mentioned by EPA in its solicitation of comments is "a 5-percent threshold or a 2 ppb threshold." *Id.* For these comments, it is assumed that the stated "5-percent" threshold is meant to be 5 percent of the 2015 ozone NAAQS standard of 70 ppb which would be 3.5 ppb.

EPA also states that it intends to reconsider in a separate, upcoming rulemaking the SIP Disapproval Action as to other states including, but not limited to, the states of Arkansas, Missouri, Oklahoma, Utah, and West Virginia. 91 Fed. Reg. at 4036. The highest contribution levels for Arkansas, Missouri, Oklahoma, Utah, and West Virginia for 2023 and 2026 in all five cases are below 2 ppb and in the case of Oklahoma its highest contribution level in 2026 is below 1 ppb.

Appendix A, attached to these comments and incorporated by reference, contains a report by Alpine Geophysics entitled "*Alternate Threshold Analysis of Interstate Transport Plan Review for the 2015 Ozone NAAQS*" ("Alpine Report") which provides the technical justification for the usage of higher alternative contribution thresholds of at least 2 ppb and 3.5 ppb.

As is noted in the EPA final rule disapproving the state plans related to the 2015 ozone NAAQS with respect to 2023 modeling data and in EPA's final rule approving the federal Good Neighbor Plan related to the 2015 ozone NAAQS with respect to both 2023 and 2026 modeling data, these five states and others have the following highest contribution levels below 2 ppb. 88 Fed. Reg. 9336; *see also* 88 Fed. Reg. at 36709-11.

	2023	**2026**
Arkansas	1.21 ppb	1.16 ppb
Missouri	1.87 ppb	1.68 ppb
Oklahoma	1.01 ppb	0.74 ppb
Utah	1.29 ppb	1.05 ppb
West Virginia	1.49 ppb	1.34 ppb

Further, Maryland, Michigan and Virginia contribute below 2 ppb based on 2023 modeling results and that Maryland contributes below 1 ppb with 2026 modeling results. *Id.*

	2023	**2026**
Maryland	1.28 ppb	0.92 ppb
Michigan	1.59 ppb	1.47 ppb
Virginia	1.76 ppb	1.10 ppb

EPA's 2023 modeling data also demonstrates that the highest contributions of Ohio and Wisconsin are below 3.5 ppb and that EPA's 2026 modeling data demonstrates that Ohio's highest contribution is less than 2 ppb and that Wisconsin is less than 1 ppb. *Id.*

	2023	**2026**
Ohio	2.05 ppb	1.95 ppb
Wisconsin	2.86 ppb	0.18 ppb

The remaining states have the following highest contribution levels based on 2023 and 2026 modeling data. *Id.*

	2023	**2026**
California	35.27 ppb	34.03 ppb
Illinois	19.09 ppb	13.57 ppb
Indiana	10.03 ppb	8.53 ppb
Louisiana	9.51 ppb	9.37 ppb
New Jersey	8.38 ppb	8.10 ppb
New York	16.10 ppb	12.65 ppb
Pennsylvania	6.00 ppb	5.47 ppb
Texas	4.74 ppb	4.34 ppb

Taken together, the Alpine Report and the 2023 and 2026 data cited above establish that contribution levels of at least 2 ppb and 3.5 ppb would capture a reasonable amount of contribution level at the 1 ppb level. Without further guidance under the Clean Air Act to define "...amounts [of emissions] which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such primary or secondary ambient air quality standard," MOG urges that EPA initiate a new rulemaking for the purpose of approving the SIP submission from the following ten additional states – Arkansas, Missouri, Oklahoma, Utah, West Virginia, Maryland, Michigan, Ohio, Wisconsin, and Texas reflecting new modeling and contribution thresholds of at least 2 ppb and 3 ppb. *See* 42 U.S.C. § 7410(a)(2)(D)(i)(I).

VI. While it is not necessary in connection with the proposed rule, EPA should carefully contemplate in future rulemaking consideration of the application of Step 3 to other states whose contribution exceeds the Step 2 contribution level.

A. EPA has an obligation to address modeling concerns ahead of Step 3.

While EPA has set forth in its proposal an appropriate plan for assessing modeling available to address Step 1 and Step 2 considerations for an initial group of ten states, we have no reason to believe that modeling data is yet available to assess whether any meaningful air quality improvement in linked downwind states would result from the imposition of any new cost effective controls on sources in a linked upwind state at Step 3.

Indeed, it was the failure to have properly performed that analysis that was the basis for Supreme Court's decision to issue an emergency stay of the federal Good Neighbor Plan. *Ohio v. Environmental Protection Agency*, 603 U.S. 279 (2024).

MOG has a long-standing message to EPA, that it has an obligation to engage in technically supported management of the data used to monitor and model ozone nonattainment. Such was the basis for many of the arguments made in the Petition for Administrative Reconsideration[4] that MOG filed related to the Good Neighbor Plan, which has yet to been addressed by EPA. That petition, among other things, points out the fatal flaws that exist in application of the Air Quality Assessment Tool ("AQAT") (as compared with full scale computer modeling) to assess whether meaningful air quality improvement results from any cost-effective controls that a state might find appropriate.

Still yet, MOG continues to point out instances where EPA's analysis erroneously relied on air quality monitoring data that is known to have been influenced by exceptional events, atypical events, and international transport. MOG urges this administration to provide clarity concerning guidance and regulatory requirements regarding acceptable management of air quality modeling for the purpose of SIP development and whether such acceptable management is a requirement of the Clean Air Act. MOG asserts that it is improper burden shifting for a state to fail to manage its data assumptions consistent with sound science and policy.

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[4] American Forest & Paper Association and the Midwest Ozone Group, *Petition for Administrative Reconsideration of the Notice and Supplemental Response to Comments entitled "Federal 'Good Neighbor Plan' for the 2015 Ozone National Ambient Air Quality Standards; Notice on Remand of the Record of the Good Neighbor Plan To Respond to Certain Comments," 89 Fed. Reg. 99105 (Dec. 10, 2024); EPA Docket No. EPA-HQ-OAR-2021-0668*, (February 7, 2025). Director Mathias, on behalf of Administrator Zeldin, acknowledged receipt of the Petition on February 27, 2025. As of the data of this filing, there has not been any further correspondence related to this Petition.

B. EPA should be mindful of timing obligations related to Step 3 analyses.

Further, for states to be able to address the Step 3 multifactor test in their SIP, it will be necessary for states to be given additional time to prepare that analysis. As was pointed out by the D.C. Circuit in *Wisconsin v. EPA*, states and EPA are obligated to address good neighbor obligations "as expeditiously as practical" but no later than the next relevant downwind attainment dates found in Section 181 (a) of the Clean Air Act. 938 F.3d at 313-14. Given that the attainment date relied upon by EPA thus far has been 2023, the next relevant attainment date is 2032.

To accomplish the objective of performing this new analysis, it must be recognized that under Clean Air Act section 110(a)(1), states are allowed up to 3 years to make their SIP submittals following promulgation of a NAAQS. Allowing three years from now for states to submit their SIPs to address whether meaningful air quality improvements in downwind states would result in the upwind states may be sufficient to allow states to work with EPA an appropriate modeling platform, to assess cost effective controls. To implement any state rulemaking procedures that may be applicable, and to subject their plan to public notice.

C. EPA should address other critical factors impacting ozone nonattainment monitors.

The impacts of mobile source, VOC emissions on ambient air quality are very significant. The previous administration failed to include in its FIP a thorough assessment of existing and future emission reduction strategies related to these factors. States are currently implementing and developing emissions programs that warrant review relative to assessment of upwind/downwind alignment of attainment deadlines. Alignment of the mobile source and VOC controls with attainment plans for both upwind and downwind states is an obligation that cannot be dismissed.

Further, EPA must attend to the important issue of the complex meteorology and land-water interfaces in or near the nonattainment or maintenance monitors of interest. Photochemical modeling along coastlines is complex for two reasons. First, the temperature gradients along land-water interfaces can lead to localized on-shore, off-shore flows. Secondly, the photochemical model formulation spreads the emissions in a grid cell throughout the full grid volume of the cell. Finer grid resolution modeling is critical to appropriately characterize ozone production at these locations for accurate data.

VII. Conclusion

MOG is appreciative of the opportunity to provide comments on the Proposed Rule related to Phase I. For the foregoing reasons, MOG urges EPA to finalize the proposed approval of the plans for Alabama, Arizona, Kentucky, Mississippi, Minnesota, Nevada, New Mexico, Tennessee, Iowa and Kansas. MOG also urges EPA to continue its efforts to review the disapprovals of Arkansas, Missouri, Oklahoma, Utah, West Virginia, Maryland, Michigan, Ohio, and Wisconsin and to apply higher contribution thresholds of at least 2 ppb and 3.5 ppb in the approval of plans for those states.

Respectfully submitted,

David M Flannery

David M Flannery
Counsel for the Midwest Ozone Group

APPENDIX A

ALTERNATE THRESHOLD ANALYSIS OF PROPOSED INTERSTATE TRANSPORT PLAN REVIEW FOR THE 2015 OZONE NAAQS

Prepared for:
Midwest Ozone Group

Prepared by:
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March 2026

This document presents an analysis of different air pollution thresholds to understand how much pollution travels from one state to another and affects downwind areas under the 2015 ozone air quality standard (NAAQS). It helps support the use of alternate thresholds to meet the Clean Air Act's (CAA) "Good Neighbor" requirement. This provision of the CAA is designed to prevent "upwind" states from exporting smog-forming pollution to "downwind" neighbors.

To address this requirement, EPA has long used a four-step process for ozone:

1. Identify downwind areas that are expected to have trouble meeting air quality standards.
2. Identify upwind states that may be contributing to those problems.
3. Determine what emission reductions are needed, if any, considering air quality impacts and costs.
4. Require permanent control measures to achieve those reductions.

States can either follow this framework or use a different method, if their approach is well-supported by technical analysis and meets the requirements of the CAA.

In Step 2, EPA uses a screening threshold to decide whether pollution from one state is large enough to deserve closer study.

- If a state's contribution is below the threshold, EPA generally concludes that it does not significantly affect downwind air quality, and no further analysis is required.
- If a state's contribution meets or exceeds the threshold, that state is considered linked to the downwind problem and is evaluated more closely in Step 3 to determine whether its impact is significant or interferes with meeting air quality standards.

Choosing the right screening threshold is important. Each time EPA sets or updates an air quality standard, EPA and the states review air quality data and pollution transport patterns to decide what threshold makes sense. Because air quality conditions and pollution transport differ by pollutant and standard, a threshold that works for one standard may not be appropriate for another.

In earlier rulemakings, EPA determined that a threshold equal to 1% of the ozone standard was appropriate for the 1997 and 2008 ozone standards. In this document, EPA's most recent modeling to evaluate several possible thresholds that could be used for state plans addressing the 2015 ozone standard is analyzed.

EPA has recently determined[1] that application of a 1 ppb contribution threshold conclusively demonstrates that interstate transport of ozone precursor emissions from Alabama, Arizona, Kentucky, Mississippi, Minnesota, Nevada, New Mexico, and Tennessee do not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in other states above the Step 2 contribution level

[1] 91 FR 4035

that is the basis for linkage. It has also concluded[2] that a 1 ppb contribution level captures a generally comparable amount of total upwind contribution overall when considering all receptors.

Below is a comparison of different pollution thresholds at eastern state EPA-identified nonattainment and maintenance monitors to see how much pollution from upwind states affects downwind areas in the eastern continental US under the 2015 ozone air quality standard (70 parts per billion, or ppb). The thresholds examined were:

- 1 ppb,
- 2 ppb, and
- 3.5 ppb

The goal was to measure how much total pollution from upwind states would be counted under each threshold. This analysis used EPA's updated air quality modeling results from 2023 and 2026.
EPA used ozone source apportionment technology from photochemical computer modeling (APCA) to estimate how much pollution each state contributes to air quality problems in other states. This modeling calculated how much pollution from upwind states reaches downwind areas from which a calculation was conducted, and presented below, of how much of that pollution is captured using each of the thresholds (1, 2, and 3.5 ppb).

The tables below show that at these eastern state monitors, for the 2015 ozone NAAQS, the amount of upwind collective contribution identified using a 2 ppb threshold is generally similar to the amount identified using a threshold equal to 1 ppb in both 2023 and 2026.

Table 1 presents the projected 2023 ozone levels at each downwind location, and the total amount of pollution coming from upwind states that exceed contributions of 1 ppb to the downwind receptor.

Table 2 indicates that, at individual receptors, the proportions of upwind contribution identified using the 1 ppb and 2 ppb thresholds are also similar at most locations. Thresholds greater than 2 ppb capture a smaller share of the total upwind contribution at most receptors.

Table 3 shows that, on average across these receptors, the 2 ppb threshold captures 80 percent of the net contribution identified using the 1 ppb threshold, and the 3.5 ppb threshold captures 72 percent of the net contribution identified using the 1 ppb threshold.

Table 4 presents the projected 2026 ozone levels at each eastern state projected nonattainment or maintenance downwind location, and the total amount of pollution coming from upwind states that exceed contributions of 1 ppb to the downwind receptor.

Table 5 indicates that, at individual receptors, the proportions of upwind contribution identified using the 1 ppb, 2 ppb, and 3.5 ppb thresholds are also similar at most locations.

Finally, Table 6 shows that, on average across all reviewed receptors, the 2 and 3.5 ppb thresholds capture 85 percent of the net contribution identified using the 1 ppb threshold.

Table 4 presents the projected 2026 ozone levels at each eastern state projected nonattainment or maintenance downwind location, and the total amount of pollution coming from upwind states that exceed contributions of 1 ppb to the downwind receptor.

Table 5 indicates that, at individual receptors, the proportions of upwind contribution identified using the 1 ppb, 2 ppb, and 3.5 ppb thresholds are also similar at most locations.

Finally, Table 6 shows that, on average across all reviewed receptors, the 2 and 3.5 ppb thresholds capture 85 percent of the net contribution identified using the 1 ppb threshold.

Because the collective upwind contribution captured using the 1 ppb and 2 ppb thresholds in 2023 and 1 ppb, 2 ppb, and 3.5 ppb thresholds in in 2026 are generally comparable, it can be concluded that it is reasonable and appropriate for identified upwind states to use a 2 ppb contribution threshold in both 2023 and 2026 and a threshold as high as 3.5 ppb in 2026 as alternatives to a 1 ppb threshold at Step 2 of the four-step framework for developing SIP revisions under the good neighbor provision for the 2015 ozone NAAQS.

From these tables of EPA's modeling, Arkansas, Missouri, and West Virginia contribute less than 2 ppb in both the 2023 and 2026 EPA modeling. Maryland, Michigan, and Oklahoma are shown to contribute below 2 ppb based on 2023 results and Maryland and Oklahoma contribute below 1 ppb with 2026 results. EPA's 2026 modeling also demonstrates that Ohio's highest contribution is less than 2 ppb and that Wisconsin is less than 1 ppb, eliminating the linkages of these upwind states to downwind nonattainment or maintenance receptors in that year.

Table 1. EPA 2023 12km APCA contributions to eastern state nonattainment and maintenance monitors.

Green + Yellow + Red cells indicate states contributing with ≥ 1 ppb threshold. Yellow + Red cells indicate states contributing with ≥ 2 ppb threshold. Red cells indicate states contributing with ≥ 3.5 ppb (5%) threshold.

Site ID	State	County	2023 Avg DV	2023 Max DV	AZ	AR	IL	IN	LA	MD	MI	MS	MO	NJ	NM	NY	OH	OK	PA	TX	VA	WV	WI
90010017	Connecticut	Fairfield	71.6	72.2	0.01	0.10	0.51	0.89	0.12	0.78	1.25	0.05	0.23	8.17	0.02	16.10	1.34	0.09	5.83	0.33	0.59	0.79	0.16
90013007	Connecticut	Fairfield	72.9	73.8	0.01	0.16	0.72	1.18	0.24	0.96	1.38	0.09	0.34	7.22	0.05	12.70	2.04	0.13	5.43	0.52	1.15	1.35	0.21
90019003	Connecticut	Fairfield	73.3	73.6	0.01	0.15	0.67	1.16	0.24	1.13	1.44	0.09	0.32	8.38	0.04	12.96	2.05	0.14	6.00	0.52	1.16	1.37	0.20
90099002	Connecticut	New Haven	70.5	72.6	0.01	0.14	0.71	1.05	0.17	1.28	1.31	0.08	0.32	5.79	0.03	11.29	1.98	0.10	4.36	0.36	1.76	1.49	0.21
170310001	Illinois	Cook	68.2	71.9	0.01	0.03	-	7.11	0.05	0.00	1.16	0.00	0.37	0.00	0.05	0.14	0.68	0.62	0.25	1.09	0.02	0.08	2.34
170314201	Illinois	Cook	68.0	71.5	0.01	0.06	-	5.42	0.02	0.00	1.56	0.00	0.54	0.00	0.06	0.28	1.21	0.32	0.25	1.05	0.00	0.07	2.86
170317002	Illinois	Cook	68.5	71.3	0.04	0.19	-	6.55	0.10	0.00	1.00	0.00	1.39	0.00	0.10	0.21	1.04	0.65	0.20	1.95	0.01	0.09	2.24
480391004	Texas	Brazoria	70.4	72.5	0.01	1.21	0.07	0.07	5.21	0.00	0.00	0.53	0.64	0.00	0.03	0.00	0.02	0.62	0.00	-	0.01	0.01	0.01
481210034	Texas	Denton	69.8	71.6	0.06	0.92	0.26	0.31	2.87	0.00	0.01	0.91	0.56	0.00	0.11	0.00	0.09	1.01	0.01	-	0.00	0.00	0.02
481410037	Texas	El Paso	69.8	71.4	1.69	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00	1.59	0.00	0.00	0.01	0.00	-	0.00	0.00	0.00
481671034	Texas	Galveston	71.5	72.8	0.05	0.94	0.15	0.37	9.51	0.00	0.18	1.32	0.46	0.00	0.13	0.01	0.31	0.79	0.03	-	0.01	0.03	0.08
482010024	Texas	Harris	75.1	76.7	0.00	0.57	0.01	0.01	4.75	0.00	0.00	0.35	0.25	0.00	0.03	0.00	0.00	0.20	0.00	-	0.00	0.00	0.01
482010055	Texas	Harris	70.9	71.9	0.02	0.73	0.10	0.17	5.49	0.00	0.00	0.91	0.35	0.00	0.05	0.00	0.03	0.23	0.00	-	0.00	0.00	0.01
482011034	Texas	Harris	70.1	71.3	0.01	0.93	0.05	0.06	5.62	0.00	0.00	0.47	0.45	0.00	0.02	0.00	0.01	0.28	0.00	-	0.01	0.00	0.01
482011035	Texas	Harris	67.8	71.3	0.01	0.90	0.05	0.06	5.44	0.00	0.00	0.46	0.44	0.00	0.02	0.00	0.01	0.27	0.00	-	0.01	0.00	0.01
550590019	Wisconsin	Kenosha	70.8	71.7	0.02	0.18	19.09	8.06	0.11	0.05	1.02	0.01	1.01	0.03	0.06	0.21	1.61	0.49	0.40	1.54	0.09	0.21	-
551010020	Wisconsin	Racine	69.7	71.5	0.02	0.34	14.15	10.03	0.34	0.05	0.95	0.15	1.19	0.03	0.06	0.21	1.24	0.44	0.33	1.57	0.09	0.16	-
551170006	Wisconsin	Sheboygan	72.7	73.6	0.03	0.62	13.89	8.90	0.34	0.05	1.59	0.10	1.87	0.04	0.05	0.27	1.55	0.63	0.46	1.03	0.08	0.16	-

Table 2. Total contribution and the sum of upwind contribution in 2023 at each eastern state nonattainment and maintenance receptor captured using alternative thresholds (units are ppb).

Site ID	State	County	2023 Avg DV	2023 Max DV	Monitor State Contribution	Total Upwind Contribution	Contribution at 1 ppb	Contribution at 2 ppb	Contribution at 3.5 ppb
90010017	Connecticut	Fairfield	71.6	72.2	4.6	39.6	32.7	30.1	30.1
90013007	Connecticut	Fairfield	72.9	73.8	3.9	39.8	32.5	27.4	25.4
90019003	Connecticut	Fairfield	73.3	73.6	2.5	41.5	35.7	29.4	27.3
90099002	Connecticut	New Haven	70.5	72.6	3.9	36.6	30.3	21.4	21.4
170310001	Illinois	Cook	68.2	71.9	18.8	17.5	11.7	9.5	7.1
170314201	Illinois	Cook	68.0	71.5	23.5	15.7	12.1	8.3	5.4
170317002	Illinois	Cook	68.5	71.3	20.6	18.7	14.2	8.8	6.6
480391004	Texas	Brazoria	70.4	72.5	29.2	10.6	6.4	5.2	5.2
481210034	Texas	Denton	69.8	71.6	28.7	10.8	3.9	2.9	0.0
481410037	Texas	El Paso	69.8	71.4	3.2	4.1	3.3	0.0	0.0
481671034	Texas	Galveston	71.5	72.8	19.3	18.3	10.8	9.5	9.5
482010024	Texas	Harris	75.1	76.7	31.2	7.6	4.8	4.8	4.8
482010055	Texas	Harris	70.9	71.9	28.7	11.0	5.5	5.5	5.5
482011034	Texas	Harris	70.1	71.3	28.3	9.7	5.6	5.6	5.6
482011035	Texas	Harris	67.8	71.3	27.4	9.4	5.4	5.4	5.4
550590019	Wisconsin	Kenosha	70.8	71.7	5.5	36.7	32.3	27.2	27.2
551010020	Wisconsin	Racine	69.7	71.5	8.0	33.9	28.2	24.2	24.2
551170006	Wisconsin	Sheboygan	72.7	73.6	7.2	34.5	28.8	22.8	22.8

Table 3. Percent of 1 ppb contribution captured using alternate thresholds in 2023.

Site ID	State	County	2023 Avg DV	2023 Max DV	Contribution at 1 ppb	% of 1 ppb Captured with 2 ppb	% of 1 ppb Captured with 3.5 ppb
90010017	Connecticut	Fairfield	71.6	72.2	32.7	92%	92%
90013007	Connecticut	Fairfield	72.9	73.8	32.5	84%	78%
90019003	Connecticut	Fairfield	73.3	73.6	35.7	82%	77%
90099002	Connecticut	New Haven	70.5	72.6	30.3	71%	71%
170310001	Illinois	Cook	68.2	71.9	11.7	81%	61%
170314201	Illinois	Cook	68.0	71.5	12.1	68%	45%
170317002	Illinois	Cook	68.5	71.3	14.2	62%	46%
480391004	Texas	Brazoria	70.4	72.5	6.4	81%	81%
481210034	Texas	Denton	69.8	71.6	3.9	74%	0%
481410037	Texas	El Paso	69.8	71.4	3.3	0%	0%
481671034	Texas	Galveston	71.5	72.8	10.8	88%	88%
482010024	Texas	Harris	75.1	76.7	4.8	100%	100%
482010055	Texas	Harris	70.9	71.9	5.5	100%	100%
482011034	Texas	Harris	70.1	71.3	5.6	100%	100%
482011035	Texas	Harris	67.8	71.3	5.4	100%	100%
550590019	Wisconsin	Kenosha	70.8	71.7	32.3	84%	84%
551010020	Wisconsin	Racine	69.7	71.5	28.2	86%	86%
551170006	Wisconsin	Sheboygan	72.7	73.6	28.8	79%	79%
Average % of 1 ppb contribution captured by various thresholds ->						**80%**	**72%**

Table 4. EPA 2026 12km APCA contributions to eastern state nonattainment and maintenance monitors.
Green + Yellow + Red cells indicate states contributing with ≥ 1 ppb threshold. Yellow + Red cells indicate states contributing with ≥ 2 ppb threshold. Red cells indicate states contributing with ≥ 3.5 ppb (5%) threshold.

Site ID	State	County	2026 Avg DV	2026 Max DV	AR	IL	IN	LA	MD	MI	MS	MO	NJ	NY	OH	PA	VA	WV
90013007	Connecticut	Fairfield	70.9	71.7	0.15	0.67	1.08	0.23	0.92	1.32	0.09	0.31	7.04	12.34	1.93	4.94	1.10	1.34
90019003	Connecticut	Fairfield	71.3	71.5	0.14	0.63	1.06	0.23	1.06	1.39	0.08	0.29	8.10	12.65	1.95	5.47	1.09	1.36
480391004	Texas	Brazoria	69.1	71.2	1.16	0.06	0.06	5.03	0.00	0.00	0.48	0.58	0.00	0.00	0.02	0.00	0.01	0.00
481671034	Texas	Galveston	70.2	71.4	0.88	0.14	0.34	9.37	0.00	0.17	1.15	0.42	0.00	0.01	0.29	0.02	0.01	0.03
482010024	Texas	Harris	73.9	75.5	0.53	0.01	0.01	4.57	0.00	0.00	0.29	0.22	0.00	0.00	0.00	0.00	0.00	0.00
551170006	Wisconsin	Sheboygan	70.8	71.7	0.58	13.57	8.53	0.33	0.05	1.47	0.09	1.68	0.04	0.25	1.46	0.42	0.07	0.16

Table 5. Total contribution and the sum of upwind contribution in 2026 at each eastern state nonattainment and maintenance receptor captured using alternative thresholds (units are ppb).

Site ID	State	County	2026 Avg DV	2026 Max DV	Monitor State Contribution	Total Upwind Contribution	Contribution at 1 ppb	Contribution at 2 ppb	Contribution at 3.5 ppb
90013007	Connecticut	Fairfield	70.9	71.7	3.7	38.0	31.1	24.3	24.3
90019003	Connecticut	Fairfield	71.3	71.5	2.4	39.6	34.1	26.2	26.2
480391004	Texas	Brazoria	69.1	71.2	28.4	9.9	6.2	5.0	5.0
481671034	Texas	Galveston	70.2	71.4	18.7	17.4	10.5	9.4	9.4
482010024	Texas	Harris	73.9	75.5	30.5	7.2	4.6	4.6	4.6
551170006	Wisconsin	Sheboygan	70.8	71.7	6.5	32.9	26.7	22.1	22.1

Table 6. Percent of 1 ppb contribution captured using alternate thresholds in 2026.

Site ID	State	County	2026 Avg DV	2026 Max DV	Contribution at 1 ppb	% of 1 ppb Captured at 2 ppb	% of 1 ppb Captured at 3.5 ppb
90013007	Connecticut	Fairfield	70.9	71.7	31.1	78%	78%
90019003	Connecticut	Fairfield	71.3	71.5	34.1	77%	77%
480391004	Texas	Brazoria	69.1	71.2	6.2	81%	81%
481671034	Texas	Galveston	70.2	71.4	10.5	89%	89%
482010024	Texas	Harris	73.9	75.5	4.6	100%	100%
551170006	Wisconsin	Sheboygan	70.8	71.7	26.7	83%	83%
Average % of 1 ppb contribution captured by various thresholds ->						**85%**	**85%**